

## **REMARKS**

Claims 1 – 33 are pending in the application. Claims 6, 11, 16, 18, and 33 are objected to as being dependent upon a rejected base claim. Claims 1 – 5, 7 – 10, 12 – 15, 17, and 19 – 30 have been rejected under 35 U.S.C. §112, second paragraph; 35 U.S.C. § 102(b); 35 U.S.C. §103(a); and/or the judicially created doctrine of obvious type double patenting. Claim 30 has been amended to correct for informal defects and Claim 24 was amended to correct for a typographical error. Claim 34 has been added. Support for the amendment and new claim may be found in the specification and claims as originally filed. There is no new matter included in the amendments.

Filed herewith are a Terminal Disclaimer and a Statement Under 37 CFR 3.73(b).

### **35 U.S.C. § 112 Rejections**

Claim 30 has been rejected under 35 U.S.C. § 112 for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

The Examiner has rejected claim 30 for containing the phrase “such as.” Applicants have amended the claim to delete the “such as” phrase for clarity. Accordingly, Applicants request the withdrawal of the rejection and allowance of the claim.

### **35 U.S.C. § 102(b) Rejection**

Claims 1, 3, 9, 10, 13, and 17 have been rejected as being anticipated by Chiu et al, Science, 1999, vol. 283, pp. 1892-1895 (Chiu) under 35 U.S.C. §§ 102 (b). Applicants respectfully traverse the rejection.

The Chiu reference is not properly cited as a 102(b) reference because it was not published more than one year prior to the priority date of the instant application. Accordingly, Applicants request the withdrawal of the rejection and allowance of the claims.

### **35 U.S.C. § 103(a) Rejection**

Claims 1, 3, 9, 10, 1 – 15, 17, 19, 21, and 24 - 30 have been rejected as being un patentable over Chiu, in view of Prather et al, Tanaka et al, Walters et al, Chang et al, Kranz et al, Steenbakkers, Walker et al, and Heller et al under 35 U.S.C. § 103 (a). Applicants respectfully traverse the rejection.

The Chiu reference is not properly cited as a § 103(a) reference because it was not published more than one year prior to the priority date of the instant application. As neither Prather et al, Tanaka et al, Walters et al, Chang et al, Kranz et al, Steenbakkers, Walker et al, nor Heller teach or suggest each and every element of each claim, they do not render the instant application obvious. Accordingly, Applicants request the withdrawal of the rejection and allowance of the claims.

### **Double Patenting Rejection**

Claims 1 – 5, 7 – 10, 12, 15, 17, 21 – 28, 31, and 32 have been provisionally rejected under the judicially created doctrine of obviousness type double patenting over USSN 09/996,559. Applicants herewith file a terminal disclaimer over USSN 09/996,559 thus obviating the rejection. Accordingly, Applicants request withdrawal of the provisional rejection and allowance of the claims.

### **CONCLUSION**

In light of the above remarks, Applicants respectfully requests early consideration and allowance of the subject application.

Attorney Docket No.: (47137)59760  
USSN: 10/031,410  
Page 9

Please charge any additional fees required in connection with the papers transmitted herewith to Deposit Account No. 04-1105.

Should the Examiner wish to discuss any of the amendments and/or remarks made herein, the undersigned attorney would appreciate the opportunity to do so.

Respectfully submitted,



Date: January 19, 2005

Stephana E. Patton, Ph.D. (Reg. No. 50,373)  
EDWARDS & ANGELL, LLP  
P.O. Box 55874  
Boston, MA 02205  
Tel. No. (617) 439-4444  
Facsimile: (617) 439-4170

Customer No.: 21874